

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PUBLIC HEARING**

TIME AND PLACE: **Thursday, October 23, 2014, @ 6:30 p.m.**
 Jerrily R. Kress Memorial Hearing Room
 441 4th Street, N.W., Suite 220-South
 Washington, D.C. 20001

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 14-10 (Text Amendments to 11 DCMR (Zoning), Chapters 7 & 8)

THIS CASE IS OF INTEREST TO ALL ANCs

On June 20, 2014, the Office of Zoning received a request from the Office of Planning ("OP") requesting text amendments to Chapters 7 and 8 of the Zoning Regulations to clarify regulations pertaining to the proximity of animal related uses to residential areas. The OP Report served as the supplemental filing described in § 3013.1. At a public meeting on June 30, 2014, the Zoning Commission set down this case for a public hearing.

The proposed amendments address two main issues of adjacency:

- 1) Adjacency of animal uses to off-site residential uses. A separation of twenty-five feet would be required between the animal use and property in a Residence District used for residential purposes; and
- 2) Residential uses within the same structure as the animal use, such as in a mixed-use residential and retail building. As part of the special exception review, the applicant would have to document that the animal use would cause no noise or odors unduly objectionable to residential uses within the same building. This is similar to other special exception performance standards for uses which are also intended to not result in objectionable conditions.

In response to comments made by the Commission during its deliberations, the Office of Planning also proposes to amend §§ 738.2 and 802.27(a) to remove the prohibition against the boarding of domesticated dogs at Veterinary Boarding Hospitals. Doing so will conform these provisions with the Zoning Regulations that govern animal boarding uses (§ 735) and veterinary boarding hospitals in the SEFC/CR Zone District § 1803.16, neither of which prohibit the boarding of domesticated dogs.

The following amendments to the Zoning Regulations are proposed. New text is shown in underline and **bold** type and struck text is shown in ~~striketrough~~.

Title 11 DCMR (Zoning) amended as follows:

Chapter 7, Commercial Districts

1. Amend § 735 as shown below:

735 ANIMAL BOARDING

735.1 An animal boarding use may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.

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- 735.2 ~~The animal boarding use shall not be in a Residence Zone.~~ **No portion of the animal boarding use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes;**
- 735.3 ~~The animal boarding use shall take place entirely within an enclosed and soundproof building in such a way so as to produce no noise or odor objectionable to nearby properties, including residential units located in the same building as the use.~~
- 735.4 **The applicant shall demonstrate that the animal boarding use will comply with the following conditions and any Board's approval shall be subject to the use's continued compliance with these standards:**
- (a) The animal boarding use shall take place entirely within an enclosed ~~and soundproof~~ building;
 - (b) The windows and doors of the ~~premises~~ **space devoted to the animal boarding use** shall be kept closed;
 - (c) ~~and~~ No animals shall be permitted in an external yard on the premises; *[(a), (b) and (c) originally in 735.3]*
 - (d) Animal waste **shall be placed** in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly; and
 - (e) Odors shall be controlled by means of an air filtration system (for example, High Efficiency Particulate Air "HEPA" filtration) or an equivalently effective odor control system.
- 735.5 The Board may impose additional requirements pertaining to the location of buildings or other structures; entrances and exits; buffers, barriers, and fencing; soundproofing; odor control; waste storage and removal (including frequency); the species and/or number and/or breeds of animals; or other requirements, as the Board deems necessary to protect adjacent or nearby property.
- 735.6 External yards or other exterior facilities for the keeping of animals shall not be permitted.
- ~~735.7 Notwithstanding §735.6, an animal boarding use existing on July 11, 2005, under a Certificate of Occupancy for a "Dog Care Center" or "Dog Day Care Center," may continue the use of an external yard for the keeping of dogs if approved by the Board of Zoning Adjustment pursuant to § 3104 and the requirements of this section.~~
- ~~(a) The yard shall be located and designed to create no condition objectionable to adjacent properties resulting from animal noise, odor, and/or waste.~~
 - ~~(b) The applicant shall demonstrate that the external yard will be fenced off for the safe confinement of the animals.~~
 - ~~(c) The applicant shall demonstrate that the external yard is located entirely on private property.~~
 - ~~(d) The Board shall establish the hours in which animals may be kept in the yard, provided that no animals shall be permitted in the yard between the hours of 8:00 p.m. and 7:00 a.m.~~

2. Amend § 736 as shown below:

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736 PET GROOMING ESTABLISHMENT

736.1 A pet grooming establishment may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.

736.2 The pet grooming establishment shall **produce no noise or odor objectionable to nearby properties, including residential units located in the same building as the use.** ~~not be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste.~~

736.3 The **applicant shall demonstrate that the pet grooming establishment will comply with the following conditions and any Board's approval shall be subject to the use's continued compliance with these standards:**

- (a) All animal waste shall be placed in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly;
- (b) Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system; and *[(a) and (b) originally 735.4]*
- (c) No animals shall be permitted in an external yard on the premises. *[(c) originally in 736.7]*

736.4 ~~The pet grooming establishment shall not abut an existing residential use or Residence District.~~ **No portion of a pet grooming establishment use shall be located within twenty-five (25 ft.) of a property in a Residence District used for residential purposes.**

736.5 ~~External yards or other external facilities for the keeping of animals shall not be permitted.~~

736.65 The sale of pet supplies is permitted as an accessory use.

736.76 The Board may impose additional requirements as it deems necessary to protect nearby properties.

3. Amend § 737 as shown below:

737 PET SHOP

737.1 A pet shop may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.

737.2 The pet shop shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste, **including residential units located in the same building as the use.**

737.3 ~~The pet shop shall not abut an existing residential use or a Residence District.~~ **No portion of a pet shop use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes.**

737.4 External yards or other external facilities for the keeping of animals shall not be permitted.

737.5 The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

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4. Amend § 738 as shown below:

738 VETERINARY BOARDING HOSPITAL

- 738.1 A veterinary boarding hospital may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.
- 738.2 A veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808 (h) (1), ~~except domesticated dogs~~.
- 738.3 No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals.
- 738.4 The veterinary boarding hospital shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste, **including residential units located in the same building as the use.**
- 738.5 ~~The veterinary boarding hospital shall not abut an existing residential use or a Residence District.~~ **No portion of a veterinary boarding hospital use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes.**
- 738.6 External yards or other external facilities for the keeping of animals shall not be permitted.
- 738.7 Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses.
- 738.8 The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

5. Amend § 739 as shown below:

739 ANIMAL SHELTER

- 739.1 An animal shelter may be permitted as a special exception if approved by the Board of Zoning Adjustment under §3104, subject to the requirements of this section.
- 739.2 The animal shelter shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste, **including residential units located in the same building as the use.**
- 739.3 **The applicant shall demonstrate that the animal shelter use will comply with the following conditions and any Board's approval shall be subject to the use's continued compliance with these standards:**
- (a) The animal shelter shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping; *[(a) originally 739.3]*
 - (b) All animal waste shall be placed in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly;

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- (c) Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system; and *[(b) and (c) originally 739.4]*
- (d) External yards or other external facilities for the keeping of animals shall not be permitted unless the entire yard is located a minimum of two hundred (200) feet from an existing residential use or Residence District. *[(d) originally 739.6]*

~~739.4 All animal waste shall be placed in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system.~~

~~739.54 The animal shelter shall not abut an existing residential use or a Residence District. **No portion of the animal shelter use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes.**~~

~~739.6 External yards or other external facilities for the keeping of animals shall not be permitted unless the entire yard is located a minimum of two hundred (200) feet from an existing residential use or Residence District.~~

~~739.75 The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.~~

Chapter 8, Industrial Districts

1. Amend § 801 as shown below:

801 USES AS A MATTER OF RIGHT (C-M)

801.7 The following additional uses shall be permitted as a matter of right in a C-M District, subject to the standards of external effects in § 804:

- (a) An animal shelter shall be permitted as a matter of right subject to the following standards:
 - (i) The animal shelter shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping;
 - (ii) Animal shelters shall place all animal waste in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system;
 - (iii) ~~Animal shelters shall not abut an existing residential use or a Residence District;~~ **No portion of an animal shelter use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes;** and
 - (iv) Outdoor runs and external yards for the exercise of animals shall be permitted, subject to the following requirements:
 - (A) No animals shall be permitted in outdoor runs or external yards between the hours of 8:00 p.m. and 8:00 a.m.;

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- (B) External yards and outdoor runs shall be enclosed with fencing or walls for the safe confinement of the animals and the absorption of noise. Fencing and/or walls shall be a minimum of eight (8) feet in height and constructed of solid or opaque materials with maximal noise- absorbing characteristics;
- (C) No more than three (3) animals shall be permitted within any exterior yard or outdoor run at a time; and
- (D) No part shall be located within two hundred (200) feet of an existing residential use or Residence District.

2. Amend § 802 as shown below:

- 802.21 An animal boarding use may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.
- 802.22 The animal boarding use shall be located and designed to create no condition objectionable to adjacent properties resulting from animal noise, odor, or waste, **including residential units located in the same building as the use.**
- 802.23 The animal boarding use shall not abut a Residence District. No portion of the animal shelter use shall be located within twenty-five feet (25 ft.) of a Residence District used for residential purposes.
- 802.24 External yards or other exterior facilities for the keeping of animals shall not be permitted.
- 802.25 A pet grooming establishment may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this subsection.
 - (a) The pet grooming establishment shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste;
 - (b) All animal waste shall be placed in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system;
 - (c) ~~The pet grooming establishment shall not abut an existing residential use or a Residence District~~ **No portion of the pet grooming establishment use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes.**
 - (d) External yards or other external facilities for the keeping of animals shall not be permitted;
 - (e) The sale of pet supplies is permitted as an accessory use; and
 - (f) The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

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- 802.26 A pet shop may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this subsection:
- (a) The pet shop shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste;
 - (b) ~~The pet shop shall not abut an existing residential use or a Residence District~~ **No portion of the pet shop use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes;**
 - (c) External yards or other external facilities for the keeping of animals shall not be permitted; and
 - (d) The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.
- 802.27 A veterinary boarding hospital may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this subsection.
- (a) A veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code §8-1808 (h)(1), except domesticated dogs;
 - (b) No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals;
 - (c) The veterinary boarding hospital shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;
 - (d) ~~The veterinary boarding hospital shall not abut an existing residential use or a Residence District~~ **No portion of the veterinary boarding hospital use shall be located within twenty-five feet (25 ft.) of a property in a Residence District used for residential purposes;**
 - (e) External yards or other external facilities for the keeping of animals shall not be permitted;
 - (f) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and
 - (h) The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

Proposed amendments to the Zoning Regulations of the District of Columbia are authorized pursuant to the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 *et seq.*)

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of § 3021.

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How to participate as a witness.

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

Time limits.

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning of their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail (donna.hanousek@dc.gov), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- | | | |
|----|---------------|----------------|
| 1. | Organizations | 5 minutes each |
| 2. | Individuals | 3 minutes each |

Pursuant to § 3020.3, the Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record. Written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON SCHELLIN, SECRETARY TO THE ZONING COMMISSION.